

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Eric Stokes,)	Civil Action No.: 8:14-4288-BHH
)	
	Petitioner,)
)	
v.)	<u>OPINION AND ORDER</u>
)	
Warden, FCI Estill)	
)	
	Respondent.)
)	

The petitioner Eric Stokes (“the petitioner”), proceeding *pro se*, filed this habeas relief action pursuant to 28 U.S.C. § 2241. (ECF No. 1.) This matter is before the Court on the respondent’s motion to dismiss or, in the alternative, for summary judgment. (ECF No. 20.) In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C., this matter was referred to United States Magistrate Judge Jacquelyn D. Austin, for pre-trial proceedings and a Report and Recommendation (“Report”). On July 30, 2015, Magistrate Judge Austin issued a Report recommending that the respondent’s motion for summary judgment be granted and the petition for writ of habeas corpus be denied. (ECF No. 28.) The Magistrate Judge advised the petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. (ECF No. 28-1.) The petitioner has filed no objections and the time for doing so expired on August 17, 2015.

The Magistrate Judge makes only a recommendation to the district court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court is charged with making a *de novo* determination of any

portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation”) (citation omitted).

After a thorough review of the record of this matter, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report and Recommendation (ECF No. 28) by reference into this order.

It is therefore ORDERED that the respondent’s motion for summary judgment (ECF No. 20) be GRANTED and the petition for writ of habeas corpus be DENIED.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

August 25, 2015
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.